

CIVIL DISTRICT COURT FOR THE PARISH OF ORLEANS
STATE OF LOUISIANA

NO. 19-1853

FILED
SECTION 11
DIVISION 19 P 1:14
CIVIL DISTRICT COURT

JORGE RODRIGUEZ-FRANCO, LILLIAN BENITEZ,
CHANTILLY BENITEZ AND ANGELIQUE BENITEZ

VERSUS

ROBERT BERGERON, ELAINE BERGERON, NOLA BOURBON, LLC, FRANK
GLASER, DAN GLASER and GLASER PROPERTY MANAGEMENT INC.

FILED: _____

DEPUTY CLERK

PETITION FOR DECLARATORY AND INJUNCTIVE
RELIEF AND FOR DAMAGES

NOW INTO COURT through undersigned counsel, come Lillian Benitez, Jorge Rodriguez-Franco, Chantilly Benitez and Angelique Benitez, all persons of the age of majority and residents of and domiciled in the Parish of Orleans, State of Louisiana, who respectfully represent as follows:

Receipt Date 2/19/2019 1:26:00 PM

1. Receipt Number 742562

Cashier dciaocio

Register CDC Cash Register 1

Made defendants herein are: **Robert Bergeron**, a person of the age of majority and a resident of and domiciled in the Parish of Jefferson, State of Louisiana; **Elaine Bergeron**, a person

Cash Number 2019 01853

Grand Total \$ 656.00

Amount Received \$ 656.00

Balance Due \$ 0.00

Over Payment \$ 0.00

NOLA Bourbon LLC, a limited liability company organized and existing under the laws of the State of Louisiana; **Glaser Property Management Inc.**, a corporation organized and existing under the laws of the State of Massachusetts; **Frank Glaser**, a person of the age of majority and a

Payment Transactions Ltd

Check # 11753 \$656.00

resident of and domiciled in the State of Massachusetts; and **Dan Glaser**, a person of the age of majority and residence and domiciled in the State of Massachusetts, Defendants are indebted unto the plaintiffs arising out of the following:

Item	Charged	Paid	Bal
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Other Petition Information	\$444.50	\$444.50	\$0.00
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Judicial College	\$0.50	\$0.50	\$0.00
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Building Fund Fee	\$25.00	\$25.00	\$0.00
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2. Indigent Legal Fee	\$10.00	\$10.00	\$0.00
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JSC	\$25.00	\$25.00	\$0.00
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Supreme Court-Proc	\$10.00	\$10.00	\$0.00
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Defendants Glaser Property Management, Frank Glaser, and Dan Glaser are subject to personal jurisdiction in this court as they have deliberately engaged in business transactions and tortious behavior in the State of Louisiana, and they have established sufficient minimum contacts with the State of Louisiana to support this court's exercise of personal jurisdiction over them.

Additional Defendant	\$141.00	\$141.00	\$0.00
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Defendants Robert Bergeron, Elaine Bergeron, and NOLA Bourbon have engaged in tortious behavior and caused resulting damages to the plaintiffs in Orleans Parish.

Julma Ribas
VERIFIED
2-19-19

3.

Plaintiffs Lillian Benitez and Jorge Rodriguez-Franco are the owners of real property located at 927-931 Bourbon Street, New Orleans, Louisiana. Plaintiffs Chantilly Benitez and Angelique Benitez are the adult offspring of plaintiffs Lillian Benitez and Jorge Rodriguez-Franco, and they also reside at 927-931 Bourbon Street, New Orleans, Louisiana.

4.

Defendant NOLA Bourbon, LLC is the owner of real property located at 933 Bourbon Street, New Orleans, Louisiana. Defendants Robert Bergeron and Elaine Bergeron are, upon information of belief, the sole members of NOLA Bourbon, LLC. Defendant Glaser Property Management Inc. is a short term rental company established by defendants Dan Glaser and Frank Glaser to engage in short-term rentals of properties in Louisiana, Massachusetts, South Carolina and elsewhere in the United States. Glaser Property Management has used its website, referred to as "Stayloom" or "Heirloom", to rent the property located at 933 Bourbon Street, New Orleans, on a short term basis, in violation of the law.

5.

At all times pertinent hereto, the defendant NOLA Bourbon, LLC, though the deliberate and intentional actions of its members, and Robert and Elaine Bergeron, has been engaged in the rental of the property located at 933 Bourbon Street, on a short-term basis, namely less than 30 days. Despite the fact that short-term rental of the residential property located at 933 Bourbon has been prohibited by law, the Bergeron defendants and NOLA Bourbon, LLC have conspired with defendants Glaser Property Management, Inc., Frank Glaser, Dan Glaser to engage in rentals of the property.

6.

Defendants Glaser Property Management, LLC, Frank Glaser, and Dan Glaser are fully aware of the fact that it is illegal to engage in short-term rentals of the subject property. The Glaser defendants have taken steps to conceal the fact of that 933 Bourbon Street is being used for short-term rentals. Thus, the Stayloom/Heirloom site does not list the subject property as being available for rent. Instead, persons interested in renting the subject property are provided with information regarding the 933 Bourbon Street property only upon specific request. These actions by the Glasers and their company demonstrate their knowledge that the short term rental of 933 Bourbon is prohibited by law.

7.

A request for a short term rental was made to Glaser/Stayloom in January of 2018, at which time Glaser employee Catherine Fonseca transmitted a brochure for the “exclusive mansion 933 Bourbon Street” which Glaser offered to rent for the sum of \$9,400 for the period of September 9 through September 16, 2018. Exhibit “A”.

8.

Throughout 2018 the defendants continued to engage in short term rentals of 933 Bourbon Street, in violation of the law. In particular, during the winter of 2018 defendant Glaser Property rented the property at 933 Bourbon Street to Georgia and John Redmond of San Clemente California. Although the Redmonds had originally contracted with Glaser to rent another property controlled by Robert Bergeron, located at 1731 Esplanade Avenue, New Orleans, a hard freeze prior to the scheduled rental rendered the Esplanade Avenue property uninhabitable. As an alternative, Mr. Frank Glaser offered the Redmonds a short term rental of the 933 Bourbon Street property, which the Redmonds accepted.

9.

As a result of the short term rental of the 933 Bourbon Street property by Glaser Property Management, NOLA Bourbon LLC, and the other defendants, ten people from the Redmonds’ party illegally occupied the property next door to the plaintiffs’ home. Although NOLA Bourbon was subsequently cited by the City of New Orleans for engaging in short term rentals, the company has sought to engage in a cover up of its illegal activities. To that end, NOLA Bourbon and its attorney filed pleadings in the Civil District Court wherein it is alleged that the short term renters was an “acquaintance of Nola Bourbon” which had asked “if its guests could briefly stay at the Property”. See petition for nullity filed in CDC No. 18-7206. In fact, the Redmonds were not acquaintances of Nola Bourbon or its counsel, Lauren Bergeron Griffin, the person who made the false allegations in the court filings which occurred in July of 2018. The false filings by NOLA Bourbon and its counsel are further evidence of their continuing conspiracy to violate the law and their concerted efforts to escape punishment for doing so.

10.

The 933 Bourbon St. property consists of three units, the primary residence, which is on the second floor, plus two large apartments occupying the ground floor. However, the ground floor apartments can only be entered from the rear courtyard of the 933 Bourbon Street property. The rear courtyard can only be accessed by going through the main residence on the second floor. Thus,

defendants can currently only rent the two apartments in conjunction with a rental of the primary residence, as there is no way to obtain access to the apartments.

11.

However, there is potentially an alternative way to access the rear courtyard of 933 Bourbon Street, which is through an alleyway on the property owned by plaintiffs Benitez and Franco at 927 Bourbon Street. Thus, in order to facilitate their illegal short term rental operations, defendant NOLA Bourbon LLC and the Bergerons have sought to obtain property rights in the plaintiffs' alleyway, despite the fact that they have no cognizable claim as a matter of law or contract. Defendants have sought injunctive relief in order to require the plaintiffs to provide access to the rear courtyard of 933 Bourbon Street, in order to facilitate defendants' short term rental activities.

12.

When the plaintiffs Benitez and Franco attempted to assert their rights to keep the Bergerons and the uninvited short term rental guests of NOLA Bourbon from trespassing on the plaintiffs' property, defendant Robert Bergeron deliberately and intentionally destroyed a brick wall on the plaintiffs property. In particular, on February 17, 2018, defendant Robert Bergeron, assisted by his son and others, physically destroyed a brick wall on the plaintiffs' property, without any legal right or authority to do so.

Count One
Action for Nuisance Pursuant to Article 2315

13.

Plaintiffs re-state and re-aver the allegations of paragraphs 1 through 12 as if copied herein in extenso.

14.

The actions of the defendants in deliberately engaging in short term rentals on the property located at 933 Bourbon Street is in violation of the law, and constitute a nuisance *per se*.

15.

Additionally, defendants' short term rental activities have resulted in security problems, increased traffic, excessive noise, and behavior which violates the norms of civilized behavior. In addition to being loud and trespassing on the plaintiffs' property, the short term guests staying at 933 Bourbon St. have engaged in grotesque and deliberately offensive behavior such as throwing used condoms over the wall onto the plaintiffs' property. Defendant NOLA Bourbon has also sought to cover-up its illegal activities through the filing of its Petition for Nullity in CDC No. 18-

7206, which asserts claims which are false and designed to mislead governmental officials about the true nature of the actions engaged in by the defendants.

16.

The defendants' actions in knowingly and deliberately engaging in short term rentals has caused damages and injuries to the plaintiffs, including inconvenience, aggravation, and worry caused by the continuing short term rental activities. Thus, pursuant to Civil Code Article 2315, defendants are liable unto plaintiffs for all damages resulting from their conduct.

Count Two
Claim for Destruction of Property Pursuant to Article 2315

17.

Plaintiffs re-state and re-aver the allegations of paragraphs 1 through 16 as if copied herein in extenso.

18.

On February 17, 2018 defendant Robert Bergeron caused the destruction of a brick wall on the property owned by plaintiffs Lillian Benitez and Jorge Rodriguez-Franco. Mr. Bergeron, with the assistance of others, destroyed the plaintiffs' wall without legal right or authority.

19.

Plaintiffs Lillian Benitez and Jorge Rodriguez-Franco have been damaged by the actions of defendant Bergeron, who is obligated to compensate the plaintiffs for their injuries and damages pursuant to the provisions of Civil Code Article 2315.

Count Three
Claim for Declaratory and Injunctive Relief

20.

Plaintiffs re-state and re-aver the allegations of paragraphs 1 through 19 as if copied herein in extenso.

21.

The defendants' actions in continuing to engage in short term rentals of the property at 933 Bourbon is in violation of the law. Plaintiffs are entitled to have the neighboring property owned by defendant NOLA Bourbon comply with all of the laws and ordinances of the State of Louisiana and the City of New Orleans.

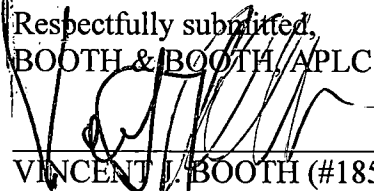
22.

Plaintiffs are entitled to a declaration from this court that the defendants' short term rentals are in violation of the law.

As the defendants' short term rental activities of 933 Bourbon Street are clearly illegal, the plaintiffs are entitled to preliminary and permanent injunctions from this court barring the defendants from engaging in further illegal short term rentals of the property located at 933 Bourbon Street.

WHEREFORE, plaintiffs pray that this petition be filed and that the defendants be served as provided for by law, and that after due proceedings, that judgment be rendered in favor of the plaintiffs and against the defendants, granting plaintiffs all relief requested herein, as well as any additional relief which equity and the cause may require.

Respectfully submitted,
BOOTH & BOOTH, APLC


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PLEASE SERVE:

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